

placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and track means positioned adjacent to an edge of the compartment aperture;

a planar closure member supported by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the closure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter; and

means for slidably supporting a rear end portion of the closure member relative to the handle, including rear slide cam means on the rear end portion of the closure member through which the handle slidably extends;

wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front end portion of the closure member when placed in its retracted position.- -

#### REMARKS

In the above-identified Office Action, claims 1-3, 5, 7, 8, and 20 were rejected under 35 U.S.C §251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. These claims were further rejected as being based upon a defective declaration. Applicants are appreciative of the

assistance provided by the Examiner during the June 6, 2001 telephone conference. In accordance with the instructions given by the Examiner during the telephone conference, claims 4, 6 and 11 have been cancelled, and claims 1, 3, 5, 8, 9, and 12-17 have been amended using the claims from the issued patent. Additionally, new claim 20, the same claim presented in earlier responses, has been added.

Claim 1 has been amended to remove all references to the term "mesh". The term "means" has been associated with track and rear slide clamp. The recitations of cancelled claims 4 and 6 have been added into claim 1, which was indicated in a previous Office Action as rendering claim 1 allowable. Moreover, a Third Supplemental Declaration is submitted herewith which includes the language indicated as being acceptable in the above-identified Office Action, and which recites all of the amendments to the claims presented in this Response. The Examiner indicated in the above-mentioned telephone conference that the addition of the acceptable language to the previous declaration would be acceptable. Thus, claims 1-3, 5, and 7-8 are now in condition for allowance. Claims 9, 10, and 12-19 were indicated in the Office Action as allowed. Applicants have amended claims 9, and 12-17 in accordance with previous amendments to ensure that these amendments are properly entered.

Applicants have again added new claim 20, which was first presented in Applicants' August 7, 2000 Response. Claim 20 is essentially the combination of prior objected to claim 8 and independent claim 1. In the most recent Office Action claim 20 was rejected under 35 U.S.C. §251 as being an improper

recapture of broadened claim subject matter surrendered in the application for the patent upon which the present reissue is based. The Office Action described the impermissible recapture as being the omission of the "central notch" of the closure member which was an original dependent claim 5 which was added into independent claim 1 during the prosecution of the original patent. However, Applicants believe that it was the addition of the "rear slide clamp" (originally in dependent claim 5) which rendered independent claim 1 allowable. There was no discussion in the Office Action that resulted in this claim amendment which indicated that the "central notch" was a distinguishing feature. Accordingly, Applicants believe that the omission of the "central notch" from claim 20 is not an impermissible recapture of surrendered subject matter as claim 20 includes the recitation of the "rear slide clamp". If the Examiner agrees with this assertion, Applicants would like the opportunity to remove the "central notch" recitation from independent claim 1 as well, as Applicants' mass-produceable device does not necessarily include a "central notch through which the handle slidably extends".

///

///

///

///

///

///

///

///

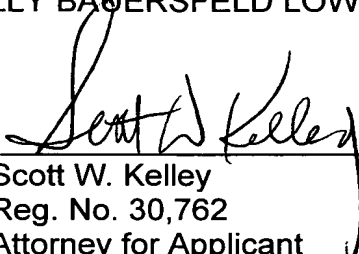
CONCLUSION

With the submission of the Third Supplemental Declaration and foregoing claim amendments and arguments, Applicants believe that all of the claims are now in condition for allowance, notice of which is hereby respectfully requested.

Respectfully submitted,

KELLY BAUERSFELD LOWRY & KELLEY, LLP

By

  
\_\_\_\_\_  
Scott W. Kelley  
Reg. No. 30,762  
Attorney for Applicant

SWK:cdm

6320 Canoga Avenue  
Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900

AMENDMENTS IN ACCORDANCE WITH 37 C.F.R. 1.121

In accordance with 37 C.F.R. §1.121, Applicants request that the following claims be substituted as follows:

1. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and track means positioned adjacent to an edge of the compartment aperture;

a planar closure member supported by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the closure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter;

means for slidably supporting a rear end portion of the closure member relative to the handle, including rear slide camp means on the rear end portion of the closure member through which the handle slidably extends; and

means for limiting the extent of movement of the closure member between the retracted position and the extended position, including a bumper fixed to the

handle to prevent rearward movement of the closure member beyond the retracted position.

2. An apparatus as set forth in claim 1, wherein the handle has a generally rectangular cross-sectional configuration and is constructed of a resiliently flexible material.

3. An apparatus as set forth in claim 1, wherein the track means comprises two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the closure member throughout its range of motion between the retracted and extended positions.

5. An apparatus as set forth in claim 1 wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the track means to prevent movement of the closure member beyond the front end of the compartment aperture as defined by the housing.

7. An apparatus a set forth in claim 1, wherein the housing is generally transparent and the upper wall thereof includes a plurality of small apertures which allow air and water to pass but which are not large enough to permit a roach-sized insect to escape therethrough.

8. An apparatus as set forth in claim 1 wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front end portion of the closure member when placed in its retracted position.

9. A dual purpose apparatus providing, alternatively, an insect trap and a fly swatter the apparatus comprising:

an elongate, resiliently flexible handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle, the housing defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing further includes a projection extending rearwardly from the insect trap compartment, for supporting a front end portion of the slidable means when placed in its retracted position;

means slidable with respect to the handle and the housing in a plane between a retracted position and an extended position, for covering the insect trap compartment aperture in the extended position, and for uncovering said compartment aperture in the retracted position to permit access to the insect trap compartment, wherein the slidable means, in the extended position, and the housing cooperatively provide a fly swatter; wherein the slidable means comprises a planar closure member, and wherein the housing includes a track for the closure member, the track comprising two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the closure member throughout its range of motion between the

retracted and extended positions; and rear slide clamp attached to a rear end portion of the closure member, having a central notch through which the handle slidably extends, which provides means for slidably supporting the rear end portion of the closure member relative to the handle.

10. An apparatus as set forth in claim 9, wherein the housing includes an upper wall and interconnected side walls extending downwardly to define the compartment aperture.

12. An apparatus as set forth in claim 9 wherein the housing is generally transparent and the upper wall thereof includes a plurality of small aperture which allow air and water to pass but which are not large enough to permit a roach-sized insect to escape therethrough.

13. An apparatus as set forth in claim 9, including means for limiting the extend of movement of the closure member between the retracted position and the extended position, wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the tract to prevent movement of the aperture as defined by the housing, and a rear bumper fixed to the handle and designed to engage the rear slide clamp to prevent rearward movement of the closure member beyond the retracted position.



14. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

and elongate, resiliently flexible handle of a generally rectangular cross-sectional configuration, having a rear end intended to be grasped by a user, and a front end;

a rigid, generally transparent housing attached to the compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, wherein the upper wall includes a plurality of small apertures which allow air and water to pass but which are not large enough to permit a roach-sized insect to escape therethrough, the housing further including a projection which extends rearwardly from a side wall adjacent to the handle;

a track including two parallel channels which define the track is supported by side walls and the rearward projection of the housing;

a planar closure member supported within the track and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the closure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter; and

a rear slide clamp attached to a rear end portion of the closure member, having a central notch through which the handle slidably extends, for slidably supporting the rear end portion of the closure member relative to the handle.

15, An apparatus as set forth in claim 14, including means for limiting the extent of movement of the closure member between the retracted position and the extended position.

16. And apparatus as set forth in claim 15, wherein the closure member movement limiting means includes a housing bumper enclosing a front end of the track to prevent movement of the closure member beyond a front end of the compartment aperture as defined by the housing, and a rear bumper affixed to the handle to prevent rearward movement of the closure member beyond the retracted position, the rear bumper being so situated so as to position the front end portion of the closure member within the portion of the track supported by the rear housing projection when the closure member is in its retracted position.

17. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

and elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and a track positioned adjacent to an edge of the compartment aperture;

a frameless planar closure member supported within the track and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the enclosure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter;

a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track designed to support a front end portion of the closure member when placed in its retracted positions; and

a rear slide clamp attached to the rear end portion of the closure member, having a central notch through which the handle slidably extends.

18. An apparatus as set forth in claim 17, wherein the track comprises two parallel channels which define two sides of the compartment aperture, wherein the channels are arranged to support a front end portion of the mesh closure member throughout its range of motion between the retracted and extended positions.

19. An apparatus as set forth in claim 17, including a housing bumper enclosing a front end of the track to prevent movement of the closure member beyond the front end of the compartment aperture as defined by the housing, and a bumper fixed to the handle to prevent rearward movement of the closure member beyond the retracted position.

20. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and track means positioned adjacent to an edge of the compartment aperture;

a planar closure member supported by the track means and slidable between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the closure member covers the compartment aperture, wherein the housing and the closure member, in its extended position, cooperatively provide a fly swatter; and

means for slidably supporting a rear end portion of the closure member relative to the handle, including rear slide cam means on the rear end portion of the closure member through which the handle slidably extends; wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front end portion of the closure member when placed in its retracted position.